United Nations S/AC.49/2006/15

Security Council

Distr.: General
30 November 2006

Original: English

Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea

Note verbale dated 14 November 2006 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Hungary to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea and has the honour to provide the information requested pursuant to paragraph 11 of the resolution (see annex).

06-63633 (E) 121206

Annex to the note verbale dated 14 November 2006 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

1. Before presenting the measures taken by Hungary at a national level with a view to implementing the provisions of paragraph 8 of UNSCR Resolution 1718(2006), it is worth mentioning that the Republic of Hungary and the other Member States of the European Union have decided to jointly implement the restrictive measures against the DPRK imposed by the Resolution. Discussions are currently taking place in the relevant bodies of the Council of the European Union in order to elaborate the relevant legal instruments, which would form the basis of this joint implementation. It is important to underline that, according to the established practice of the European Union, some of the measures (i.e. restriction of supply and transfer of dual-use items, freezing of funds and economic resources, a ban on export of luxury goods) provided for in the Resolution are likely to be incorporated in a legal instrument (Council Regulation) which is entirely binding and directly applicable in all the Member States of the European Union.

2. Pending the adoption of the above-mentioned legal instruments Hungary has taken the following steps with a view to implementing the provisions of paragraph 8 of Resolution 1718(2006).

a) As far as the ban on export of conventional weapons provided for in Resolution paragraph 8 (a) (i) is concerned:

Hungary has the following national legislation requiring an export/import authorization for the sale, supply, transfer or export of arms and related materiel to third countries and an authorization for the provision of brokering services and other services related to military activities, which provide the basis for enforcement of the arms embargo against the DPRK and the ban on related brokering services:

- **Government Decree No. 16/2004. (II.6.) on the Licensing of the export, import, transfer and transit of military equipment and technical assistance;**
- **Government Decree No. 110/2004. (IV. 28.) on the Cross-border or cross-tariff border trade in goods, services and rights representing material value (in force from 23th December 2005);**
- **Act 109 of 2005 on the Licensing the manufacture of military equipment and the provision of military related technical assistance;**
- **Government Decree No. 301/2005. (XII. 23.) on the special rules applicable on Licensing of the manufacture of military equipment and the provision of military related technical assistance.**

A 3-tier arms trade licensing system with very strict procedural sequence guarantees that all international obligations of the Republic of Hungary, including UN embargoes, are duly respected. The EU Code of Conduct on arms export (adopted on June 8, 1998) and the EU Common Position 2003/468/CFSP[1] on the control of arms brokering are also applied. Government Decree No. 16/2004. (II.6.) listed above prohibits to issue a license if and when approval would be inconsistent with the international obligations of Hungary to enforce UN, OSCE and EU arms embargoes.

b) As far as the ban on export of sensitive dual use goods and technology, provided for in Resolution paragraph 8 a) (ii) is concerned:

Hungary, in her capacity as active member of the Nuclear Suppliers' Group (NSG), the Australia Group (AG), the Missile Technology Control Regime (MTCR), the Zangger Committee (ZC), the Wassenaar Arrangement (WA), is a strong supporter of effective multilateral export control regimes. Control lists of the above regimes are incorporated into and regularly updated in the relevant national regulations. Hungary lends its full support to the aims of the Proliferation Security Initiative (PSI) early on and has taken part in practical exercises organised within that framework. The PSI Statement of Interdiction Principles, agreed at Paris on 4 September 2003, makes clear that all action will be consistent with national legislations and international legal frameworks.

Exports of dual use items and technology are controlled in the European Union at Community level by **Council Regulation 1334/2000/EC (as amended) setting up a Community regime for the control of exports of dual-use items and technology**[2]. The Regulation covers dual use items and technologies falling within the scope of relevant international non-proliferation regimes and export control arrangements including the ones described above and relevant international treaties, such as in particular the Chemical Weapons Convention (CWC). Under EU Law Council Regulation 1334/2000/EC is entirely binding and is directly applicable in Hungary. Article 8 of the Regulation stipulates that when deciding to grant an export authorisation (EU) member states take into account inter alia their obligations under sanctions imposed by a binding resolution of the UN Security Council. To support the full implementation of UNSCR 1718 by EU Member States a new Council Regulation will also contain provisions concerning the ban on export of sensitive dual use goods and technology.

Hungarian Government Decree on the licensing of foreign trade in dual-use goods and technologies (No. 50/2004) not only fully implements the provisions of the EC regulation but also sets out domestic procedural rules, including the designation of the competent Hungarian authorities.

[1] Official Journal L 156, 25.6.2003, p. 79–80

[2] Official Journal of the European Union L 159, 30.6.2001, p. 1

The Hungarian Trade Licensing Office (official web-site: www.mkeh.gov.hu) is the export-import licensing authority in Hungary, under the auspices of which two separate divisions issue licenses respectively for the trading of conventional military equipment and technology and for dual-use goods (**Government Decree No. 36/2004 on the Hungarian Trade Licensing Office**).

The Export Control Division of the Licensing Office is entrusted with the licensing of the export and import of dual-use products and technologies.

The Inter-ministerial Committee on Non-Proliferation (ICNP) is responsible for actions to be put into effect so as to comply with Hungary's commitments undertaken in non-proliferation treaties, regimes and various international initiatives. Among its other functions, the ICNP discusses and forms an opinion on non-proliferation related issues and provides guidance on priorities for the work of individual ministries. It reviews and co-ordinates the enforcement and practical implementation of Hungary's international non-proliferation commitments, including the ones that are sanctions related.

Section 287 of the Penal Code penalises all violation of rules and regulations covering the trading of military equipments and services, dual use products and technologies. Reference is made to EC regulation No. 1334/2000 and to the relevant EU list of dual-use items and technologies.

c) As far as inspection of cargo provided for in Resolution paragraph 8 (f) is concerned:

- **the European Community Customs Code, as amended (Council Regulation (EEC) No. 2913/92[3]),**
- **the implementing provisions for the Community Customs Code (Commission Regulation (EEC) No. 2454/1993[4]),** together with
- **Act XIX of 2004 on the Hungarian Customs and Finance Guard,** and
- **Act LXXII of 2004 on the implementation of the Community Customs Code in Hungary**

empower the competent Hungarian agencies and officers alike with executive powers necessary for the effective detection and confiscation of prohibited items.

One of the main tasks of the Hungarian Customs and Finance Guard is the customs control of freight and passenger traffic entering or leaving the state territory and the prevention, detection and investigation of financial and other related crimes which are falling under its competence under the Law on Criminal Procedure. This agency has principal responsibility in preventing import and export of unlicensed and prohibited goods, in investigating criminal acts and in taking appropriate action including the instigation of criminal proceedings against suspects. It has the power to stop and search means of transportation.

All export consignments, passengers (and luggage) on their way to destinations which are affected by sanctions, including in this case the DPRK are subject to detailed customs control to be exercised before the consignment or person leaves the territory of the country via the competent customs office. Should any special circumstance not allow for the necessary customs control to be carried out at that location (e.g. chemicals/radioactive materials are transported), the customs procedure is to be conducted at designated inland customs offices.

d) As regards the freezing of funds and economic resources of persons and entities designated by the Committee of the Security Council and the prohibition of making funds or economic resources available to such persons or entities, provided for in Resolution paragraph 8 (d), with certain exemptions as provided for in UNSCR 1718 (2006), as well as the ban on export of luxury goods, provided for in Resolution paragraph 8 (a) (iii), under the Treaty on the European Union these matters fall within the exclusive competence of the European Community. These measures will therefore be implemented in Hungary on the basis of a Council Regulation which will be adopted soon.

[3] Official Journal L 302, 19.10.1992, p. 1–50
[4] Official Journal L 253, 11.10.1993, p. 1–766

e) As regards restriction on entry and transit provided for in Resolution paragraph 8 (e), the following legislation provide the basis for refusal of admission and denial of requests for a visa by any person designated by the Committee:

- **Act 32 of 1997 on the Border Guards and border guarding;**
- **Act 39 of 2001 on the entry and residence of aliens (Article 32).**

According to the second act, a national entry and stay ban is ordered to prevent the entry of people with respect to whom the Republic of Hungary has undertaken an international legal commitment to enforce a ban on entry and stay. No visa can be issued to people with respect to whom a national ban on entry and stay has been ordered and the Hungarian Border Guards have to prevent their entry.

In addition, **Council Regulation (EC) No 539/2001 of 15 March 2001**[5], which is binding in its entirety and directly applicable in Hungary, being a Member State of the European Union, requires nationals of the DPRK to be in possession of a visa when entering the European Union.

---

[5] Official Journal of the European Union L 81, 21.3.2001, p. 1.